HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.13834 of 1998

Between

K.Laxmanna ..Petitioner

AND

The Secretary to Government, Irrigation and Command Area Development Department and others ..Respondents

:: JUDGMENT ::

20.4.2007

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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The writ petitioner appears to have possessed a dwelling house and certain extent of land situate in Survey No.72, Earladinne Village, Narava Mandal, Mahaboobnagar District and it stood acquired for construction of Priyadarshini Jurala Project and consequently, he became a displaced person. This writ petition has been instituted to declare the action of the respondents in not including the name of the writ petitioner in the list of eligible persons for being considered for appointment against the posts set apart to be filled in by the displaced persons in terms of the rehabilitation scheme contemplated by the State Government through G.O.Ms.No.98, Irrigation (Projects Wing) Department dated 15.4.1986 as illegal and arbitrary. The writ petitioner asserts that an Award bearing No.21 of 1993 had been passed on 7.6.1993 by the Land Acquisition Officer for payment of compensation for the land and the structures thereon. The writ petitioner appears to be a member belonging to scheduled castes community and he appears to have passed Intermediate examination and also obtained the certificate course of Industrial Training Institute in Draughtsman (Civil).

Considering the impact of acquisition of huge extents of land for construction of Irrigation Projects which causes

displacement of human habitations, the State Government contemplated various measures for alleviating the suffering of such displaced men. In the rehabilitation package announced through G.O.Ms.No.98, the State Government had taken a policy decision to set apart not more than 50% of the vacancies of posts equivalent to Junior Assistants, Typists and the cadres below thereof arising in major and medium irrigation and power projects to be filled in by the displaced families or their dependants duly following the principles of reservation for various categories viz., SC, ST and BC etc., In view of this scheme of rehabilitation of displaced persons, the District Collector, Mahaboobnagar had considered the claims of the writ petitioner herein as he is one of the displaced persons. It was noted that the date of birth of the writ petitioner was 14.6.1975 as evidenced by the SSC certificate produced by him whereas the Land Acquisition Officer has passed the Award No.21 of 1993 on 7.6.1993 by which date, the writ petitioner had not completed the minimum eligibility requirement of 18 years of age inasmuch as he fell short by seven days. Therefore, his case could not be considered for employment.

The District Collector had also assigned another reason for not considering his case, that the writ petitioner has solicited a reference to the Civil Court for enhancement of compensation under Section 18 of the Land Acquisition Act. This reason assigned by the District Collector is clearly irrelevant factor for the purpose of considering and implementing the scheme of rehabilitation announced by the State Government through G.O.Ms.No.98 dated 15.4.1986. However, the first factor viz., the writ petitioner had not attained the age of 18 years by the

time the Award came to be passed by the Land Acquisition Officer, was certainly a factor which has got to be considered. It will be relevant to notice at this stage that realizing that some of the displaced persons had faced problems relating to production of proof of their age with reference to the date of the Award, the State Government seem to have undertaken a reconsideration of the entire issue and announced their further decision through G.O.Ms.No.144, Irrigation and C.A.D. (Project Wing: SRSP.I) Department dated 31.3.1999 wherein upon careful consideration, the Government ordered to determine the qualifying age of the displaced persons for employment to be reckoned with reference to the date of award or the date of filling up of the vacancy, whichever is later. The State Government have also pointed out that fifty per cent of the vacancies which have been set apart to be filled in with displaced persons are only those which arise against the regular sanctioned posts, but not against the posts sanctioned for the work charged establishment or contingent establishment in all the major and medium irrigation projects. Thus, the policy measures which have been announced from time to time including those that were announced through G.O.Ms.No.98 dated 15.4.1986 have got to be given effect to and implemented by reckoning the age of the candidates either at the time when the Award has been passed by the Land Acquisition Officer or with the reference to the date of filling up of the vacancy, whichever is later. In the instant case, the claims of the writ petitioner have been rejected by the District Collector, Mahaboobnagar only on the ground that the writ petitioner had not completed 18 years of age as on 7.6.1993 whereas he had attained the minimum age of eligibility

for public employment viz., 18 years as on 14.6.1993. Therefore, in terms of the decision announced through G.O.Ms.No.144, Irrigation and C.A.D. Department dated 31.3.1999, the case of the writ petitioner requires to be considered by taking into account and consideration the date of filing up of the vacancies.

The learned counsel for the writ petitioner has also drawn my attention to the letter bearing No.SEI/ PJP/AB/EC2/701 dated 3.4.2001 addressed by the Superintending Engineer, P.J.P. Circle No.1, Gadwal to the District Collector, Mahaboobnagar pointing out that in terms of the decision taken by the State Government in their G.O.Ms.No.144 dated 31.3.1999, two posts of Attenders set apart to be filled in by the displaced persons, deserve to be filled in duly considering the candidature of the writ petitioner. The learned counsel for the petitioner also pointed out that out of the two posts of Attenders notified by the Superintending Engineer, PJP Circle No.1, Gadwal, one post in fact is set apart for Scheduled Castes. Since the writ petitioner asserts that he belongs to the SC community and now that the State Government had cleared the decks by announcing their latest policy of reckoning the age of the displaced persons with reference to the date of filling up of the vacancies, the decision of the District Collector, Mahaboobnagar in rejecting the candidature of the writ petitioner has to be necessarily set aside. Therefore, the District Collector is required to reconsider the entire issue afresh duly taking into account and consideration the decision of the State contained in G.O.Ms.No.144 dated 31.3.1999 and the communication from

the Superintending Engineer, PJP Circle No.1, Gadwal dated 3.4.2001. Since the proposal was pending consideration with the District Collector for the last nearly six years, I consider it appropriate to direct the District Collector to take up the issue of considering the claim of the writ petitioner for recruitment against any of the posts reserved and set apart to be filled in by the displaced persons in terms of the policy measures announced by the State Government through their G.O.Ms.No.98 dated 15.4.1986 read with G.O.Ms.No.144, Irrigation and C.A.D. (Project Wing: SRSP.I) Department dated 31.3.1999 and also reckoning the factor that the petitioner is a member belonging to Scheduled Castes community and communicate the same to the appointing authority concerned to enable the later to appoint the writ petitioner. The decision in this regard be taken on or before 31.7.2007.

With this, the writ petition is allowed. No costs.

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NOOTY RAMA MOHANA RAO.J.

20.4.2007
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